



Federal Communications Commission
Washington, D.C. 20554
SEP 15 1998

Doc. 96-198

ORIGINAL

IN REPLY REFER TO:
9806407

EX PARTE OR LATE FILED

The Honorable Charles S. Robb
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

RECEIVED

SEP 17 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Senator Robb:

This is in response to your letter on behalf of your constituent, George E. DeVilbiss, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

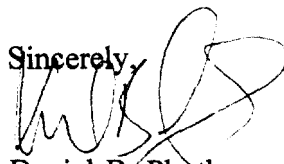
It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The copy of the comments that your constituent provided to you have already been included in the record of WT Docket 96-198. These comments will be carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Pythyon", written over the word "Sincerely,".

Daniel B. Pythyon
Chief, Wireless Telecommunications Bureau

CHARLES S. ROBB

VIRGINIA

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United States Senate

WASHINGTON, D.C. 20510-4603

July 28, 1998

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*Remainder
see 255*

*WTP
handicap
#6407*

Ms. Lauren J. Belzin
Federal Communications Commission
Office of Legislative Affairs
1919 M Street, NW, Room 808
Washington, D.C. 20554

Dear Ms. Belzin:

I have been contacted by Mr. George E. DeVilbiss of Falls Church, Virginia, expressing concern about FCC proceedings on section 255 of the 1996 Telecommunications Act. I am enclosing a copy of the correspondence I've received.

I would appreciate it if you could review the letter and consider its insightful suggestions as the commission evaluates related regulations. Many thanks for your consideration.

Sincerely,

Charles S. Robb
Charles S. Robb

CSR/egf

Enclosure

cc: Mr. George E. DeVilbiss

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The Honorable Charles S. Robb
U. S. Senate
Washington, DC. 20510

Dear Senator Robb

Enclosed is a copy of my comments on the NRPM of Section 255 of the Telecommunications Act to the FCC . You are strongly urged to see that the FCC consider my concerns and that the regulations are in accordance with the intent of Congress. I suggest that you contact the Chairman of the FCC regarding this matter

Respectfully,


George E. DeVilbiss
3056 Hazelton St.
Falls Church, VA 22044

Office of the Secretary,
Federal Communications Commission
Washington D.C. 20554

Dear Sir,

My comments on the NRPM for Section 255 of the Telecommunications Act follow:

1. It is strongly recommended and urged that the FCC adopt the Access Board guidelines which is consistent with the Access Board authority given by Congress and which indicated that the FCC guidelines be consistent with them.
2. It is further recommended that the FCC adopt the Access Board guidelines for both manufacturers and service providers. Clear and concise wording to that effect is needed to ensure that both manufacturers and service providers understand their access responsibilities and obligations in their design of new equipment. After considerable time and a lot of meetings and discussion there seems to be little progress made in eliminating the interference to hearing aids suffered when trying to use digital cellular telephones. I have tried several different manufacturer's phones but all have had the same problem. With the decline of analog cellular telephones, all of which have insufficient compatibility with hearing aids, use of Digital Cellular Telephones may soon be necessary.
3. The FCC should NOT introduce the concept of "cost recovery" in the definition of "readily achievable" but should be consistent with the definition that has traditionally been used in disability law. Introducing the cost recovery concept here would undermine the concept of accessibility in our society. Since market forces do not work it was necessary to have a law such as the ADA to require accessibility. Manufacturers and service providers already have protection from excessive costs under the present "readily achievable" standard. I find that in order for me to use any telephone it is necessary for me to use my "T" coils but lack of the ability to use this feature in cellular telephones has prevented my use of any cellular telephone either analog or digital!
4. The NRPM or Section 255 of the Telecommunications Act provides that the regulations be enforced via a complaint process which is good for the consumer but the proposed "fast track" process that would resolve most consumer complaints within 5 days seems too short a time for companies to gather documentation to resolve a complaint. 10 days would seem to be more reasonable with a possible extension to 30 days if deemed necessary!

I agree with your proposal that there be no filing fees for complaints directed against manufacturers or service providers.

The proposed Section 255 rules further states that it will establish formal legal procedures for use only when the complainant requests these procedures and "where the FCC permits the complainant to invoke these procedures". I thoroughly disagree with the statement in quotes as

this would take away the right of individuals to take a case to court if the FCC chooses to oppose such action., I believe conditioning formal complaints upon FCC approval is unprecedented and unfair that individuals could automatically be denied taking a case to court because the FCC choose to oppose such action.

5. The proposed rules omit "enhanced services" from coverage. The enhance services include voice mail and automated voice response response system. As a Hard of Hearing person, I can never understand fast speech and voice response systems are very frustrating. It is recommended that each such system have a means for the hard of hearing person to speak to a person and it is urged that such requirement be made part of the rules. When getting such responses I must rely on a hearing person to make such calls for me!

Respectfully submitted,

George DeVilbiss
3056 Hazelton St.
Falls Church VA 22044